

SENATE BILL 645

By Cooper J

AN ACT to amend Tennessee Code Annotated, Title 9, regarding appropriations and to authorize the state of Tennessee, acting by resolution of its funding board, to issue and sell its interest-bearing bonds and bond anticipation notes in amounts not to exceed one hundred million dollars (\$100,000,000) for the purpose of providing funds to the Department of Finance and Administration for purposes of office and program facilities projects; to provide for necessary repairs, replacements, additions and betterments of buildings and, expressly including the acquisition of real estate, site work, facility development and other development costs, including equipment of facilities; to issue its debt in excess of the previously stated amount to fund discount and costs of issuance; and to provide for the expenditure of such funds. This act makes appropriations for an indefinite period of time for the purpose of allocating the proceeds of the bonds and notes authorized by this act and to reallocate funds previously appropriated.

WHEREAS, it is routinely necessary for the state to acquire space in order to provide services and programs; and

WHEREAS, since it is difficult to determine initially whether it is in the best interest of the state to lease space or to build or acquire facilities, the general assembly often authorizes the expenditure of funds for leasing facilities; and

WHEREAS, it is often subsequently determined to be in the state's best interests to acquire the facility (whether existing or constructed for the state); and

WHEREAS, it is the intent of the general assembly of the state to provide discretion to the state funding board and the state building commission to make such determinations, to reallocate appropriated funds from lease payments to debt service payments, and to issue debt to acquire such space; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The state, acting by resolutions of its funding board, is hereby authorized and empowered to issue and sell direct general obligation interest-bearing bonds of the state in amounts not to exceed one hundred million dollars (\$100,000,000) to effectuate the purposes specified in section 4. Further, the funding board is authorized to sell bonds in the amounts not to exceed two and one-half percent (2.5%) of the amounts specified above and authorized in section 4, for the purpose of funding discount and costs of issuance. Such bonds may be issued and sold in one (1) block or in several installments and separately or together with other general obligation bonds of the state as the board may determine.

SECTION 2. The bonds and the interest-bearing coupons attached thereto, if any, shall be in such form, mature at such time or times within twenty (20) years from the date of their issuance, be executed in such manner, be payable at such place or places both as to principal and interest, and be in such denomination and bear such rate of interest, payable in such manner, as the funding board shall by resolution direct; provided, however, that the maximum rate determined by the funding board in no instance shall exceed the legal rate as provided in Tennessee Code Annotated, § 47-14-103. The bonds shall be sold by the funding board as provided by law, together with the accrued interest thereon, and when they have been sold, the proceeds derived from the sale thereof shall be paid to the state treasurer to be disbursed by the treasurer and other fiscal officers and agencies of the state as provided by the general law and this act. The bonds and interest payable thereon shall be exempt from taxation by the state

or by any county, municipality, or taxing district of the state except inheritance, transfer, and estate taxes.

SECTION 3. When the bonds are so issued and sold, they shall be direct general obligations of the state for the payment of which well and truly to be made according to the tenor, effect, and terms thereof the full faith and credit of the state together with its taxing power, shall irrevocably be pledged; and the bonds as authorized herein shall be issued agreeable to the terms of Tennessee Code Annotated, Title 9, Chapter 9, and they shall be financed, retired, and paid both as to principal and interest as provided in that chapter and shall be subject to the terms and conditions therein and herein contained. When the bonds are sold and proceeds paid over to the state treasurer, the funds shall be paid out by the treasurer and the proper fiscal officers of the state, as provided by general law, but only on order of the proper administrative authorities of the agency of the department herein named for the benefit of which such bonds have been authorized and only to the extent such bonds have in fact been issued for the benefit of such agency or department.

SECTION 4. The proceeds of any and all issues of bonds herein authorized shall be allocated to the following departments:

Department of finance and administration in the amount of one hundred million dollars (\$100,000,000) for office and program facility projects for the state and expended for the purpose of acquisition of equipment, and erection, construction, and equipment of sites and building, expressly including the acquisition of existing structures for expansion, improvement, betterment, and extraordinary repairs to existing structures.

In its discretion, the funding board is authorized to issue bonds in amounts not to exceed two and one-half percent (2.5%) of the amounts specified above, the proceeds of which are to be allocated to the funding board and expended for the purpose of funding discount and the costs of issuance.

SECTION 5. The proper authorities heretofore enumerated and charged with the duty of expending the funds shall have authority to proceed with the projects authorized herein and for that purpose may hire an architect or architects, advertise for low bids, and award contracts to low bidders, all within the provisions of the general law, expressly including the provision of Tennessee Code Annotated, Title 4, Chapter 15, and in agreement with the terms of this act. No contract, including a contract for architectural services, involving a project authorized by this act which is subject to the approval of the state building commission shall be entered into unless and until that contract shall have been approved by the building commission. The commissioner of finance and administration shall recommend to the funding board the acquisition of facilities when shown to be in the best interest of the state. Upon acceptance by the funding board of such recommendation, the proposal shall be presented to the building commission for approval as required by law.

SECTION 6. The appropriation made to each agency or department as provided in section 4 may be applied as determined by the funding board to bear its appropriate portion of discount and costs of issuance.

SECTION 7. Pending the issuance of the definite bonds authorized by this act, the state, acting by resolutions of its funding board, is hereby authorized and empowered to issue and sell, either at public or private sale, together with accrued interest thereon, its interest-bearing bond anticipation note or notes. Such note or notes shall be authorized by resolution of the funding board, shall bear such date or dates, as such resolution or resolutions provide. The note or notes shall bear interest at such rate or rates, be in such denominations, be in such form, be executed in such manner, be payable in such medium of payment, at such place or places, and mature on such date or dates, subject to such terms and conditions as such resolution or resolutions may provide. In its discretion, the funding board may provide that a bond anticipation note or any renewal of such note may mature more than five (5) years from the date of issue of the original note; provided, that an amortization schedule of repayment of

principal is established for the project funded by the note and provisions are made such that any note or renewal note or bond refunding such note attributed to the financing of such original note or twenty (20) years from the date the project is complete and placed in full service, whichever is earlier. Provisions of general law with respect to authentication, execution, and registration of general obligation bonds of the state shall also apply to the notes to the extent applicable. The note or notes and the interest payable thereon shall be exempt from taxation by the state or by any county, municipality, or taxing district of the state except inheritance, transfer, and estate taxes. Any resolution or resolutions of the funding board authorizing the issuance of such bond anticipation note or notes shall provide that the same are issued in anticipation of the bonds authorized hereunder and shall further provide that the full faith and credit of the state are pledged to the payment thereof.

SECTION 8. No bonds shall be issued under the authority of this act until such time as the general assembly has appropriated sufficient funds to pay the first year's obligation of principal and interest on the amount of bonds to be issued and the state funding board has determined that such funds are available.

SECTION 9. Notwithstanding any other provision of this act to the contrary, the bonds and bond anticipation notes authorized by this act may be designated "college savings bonds" and be issued pursuant to the provisions of the Baccalaureate Education Savings for Tennessee Act, compiled at Tennessee Code Annotated, Title 49, Chapter 7, Part 9.

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it.